



Office of Administration
Division of Personnel

Summary of Merit System Layoff Procedures

This overview is for informational purposes only. In the event of a conflict, the Rules of the Personnel Advisory Board should be consulted

Included in this Overview:

- Overview of Layoffs in Merit Agencies
- Information the Agency provides to the Division of Personnel
- Information the Division of Personnel provides to the Agency
- Agency Layoff Duties
- Example of Transfer in Lieu of Layoff
- Other Considerations Involving Layoff

Merit System Layoff Procedures

- Merit system agencies are obligated to follow these procedures
- Non-merit agencies may choose to follow these procedures, or develop their own. It is recommended that agencies apply their layoff procedures consistently

When Do Layoffs Occur?

When the appointing authority deems it necessary due to:

- Shortage of work or funds
- The abolition of a position or positions
- Other material change in the duties of the organization

Layoffs and Employee Service

- Reasons are outside the control of the employee and do not reflect discredit on the service of the employee
- Layoffs are not a substitute for disciplinary procedures or actions
- Layoffs are not a mechanism for removing unsatisfactory employees

Layoff Parameters

- By Division of Service within the Agency
- By Class
- On a statewide basis
- Broadbanded managers are laid off by class and band.

Divisions of service define the scope of the layoff and the reinstatement rights of employees who are laid off

Merit agencies should identify divisions of service for layoff purposes prior to the layoff

– ***Otherwise, layoffs can be applied on a broader basis than the agency intended***

Layoff Parameters

“Area” Layoff:

Layoffs are statewide within the Division of Service

- Unless the appointing authority specifically requests and receives approval from the Director of Personnel for an “area” layoff for a particular class or classes
- This approval must be obtained prior to the layoff

Requests for area layoffs should include:

- The defined area for the layoff
 - **e.g., the county(ies) included in the area**
- The classes included in the area layoff

The designated area is used for all classes identified in the area layoff request letter

What Happens First?

Agency determines:

- Whether the layoff is statewide or by area within division of service
- The functions/programs that will be impacted by the layoff
- The classes affected within the programs
- The number of positions to be abolished in each class
- The number of employees to be laid off in each class

What Happens Second?

Agency notifies Director of Personnel:

- Written notice of every proposed layoff
- At least 30 calendar days before the proposed effective date of the layoff

Notice to Director of Personnel must identify:

- Division of service
- Reasons for layoff
- Proposed effective date
- Proposed area (if other than statewide)
- Affected classes & number of positions abolished by class
- Impact of the proposed action on the classification plan of the division
- Whether “bumping” option will be allowed
- Impacted employees will be notified in writing at least 15 days prior to effective date of layoff
- Approval of the Governor’s office has been obtained (to avoid delays in processing)

Demotion in Lieu of Layoff

Demotion must be offered to a regular employee to a position:

- In a lower class in the same occupational job series, or
- To any lower class in which the employee held regular status in the division of service involved

Either of these actions may result in a layoff in the lower class

“Bumping”

Bumping:

- May be allowed at the discretion of the appointing authority to any position in a class for which the employee meets the minimum qualifications
- Bumping could be limited to certain classes

Due to the complexities involved, the bumping option is not requested in the vast majority of layoffs

(Please see Section M-4 of Manual of Personnel Procedures)

Layoff Worksheets

Worksheets are by class within Division of Service and:

- Identify names of employees in the classes affected
- Include vacant positions the agency intends to fill
- Identify employees protected due to military leave

Employees on military leave or recently returned from military leave cannot be laid off for specified periods of time [reference 1 CSR 20-5.020(4)(E)2.]

> 6 months military service = no layoff for 1 year

< 6 months and > 1 month military service = no layoff for 6 months

Notification to Agency

- Letter from Director of Personnel approving the layoff will be sent to the agency
- Layoff Worksheets with length of service from MOSERS will be e-mailed to the agency

Agency Layoff Duties

- Prepares *Layoff Worksheet* for each class affected identifying the specific positions to be abolished in order of employment status and length of service
- **Regular, Reemployment Probationary, and Reinstatement Probationary** employees are laid off in inverse order of service credit, as determined by MOSERS, not including any purchased service
- **Promotional Probationary** employees must be reinstated to the class from which promoted
- **Original Probationary** employees are laid off next in reverse order of Original Appointment date
- **Emergency, Provisional, Temporary and Limited Temporary** employees are laid off first
- Determines employees subject to layoff (junior in class)
- Identifies employees not subject to layoff, but who are occupying positions to be abolished, and who may be reassigned/transferred
- Identifies employees who must be given opportunity to accept demotion in lieu of layoff
- Determines demotion/transfer options for each affected employee
- Notifies affected employees of layoff (and options) at least 15 calendar days prior to effective date of layoff
- Letter to employees includes:
 - offers of transfer, demotion
 - restoration to register
- **Copies of above documents are provided to the Division of Personnel**
 - When available, copy of signed acceptance by the employee is provided to Division of Personnel
- Completes transactions (ESMTs) for transfers, demotions, layoffs, etc.
- Laid off employees are placed on appropriate reinstatement registers

Example: Demotion/Transfer in Lieu of Layoff

Agency is abolishing one position:

Employee Status (By Seniority)	Location	Position Abolished
A: Regular	Cole	X
B: Regular	Cole	
C: Regular	Green	
D: Reinst Prob.	Jasper	
E: Regular	Vernon	
<i>Subject to layoff</i>		

F: Regular	St. Louis Co.
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Required Transfer Actions:

1. Employee A must be reassigned to position occupied by Employee B because Employee A is most senior in Cole County
2. Employee B must be offered transfer to St. Louis County because Employee B is next senior in class

If Employee B declines the transfer, he/she is laid off

Employee Rights/Considerations

- Affected employees must receive notice (in writing) at least 15 days prior to effective date of the layoff
 - **Date of notice letter does not count as a notification day**
- Notice will include offers of transfer/demotion, if applicable
- Accepting demotion in lieu of layoff is strictly voluntary
- Layoffs and demotions in lieu of layoff cannot be appealed to the Personnel Advisory Board
- Employee does not have the right to transfer to all positions held by a less senior employee,
 - **Only to positions subject to layoff or vacant positions**
- If an employee turns down their offer(s) of transfers/demotions, he/she will be laid off
- A less senior employee may be retained if no employee with more seniority accepts that position
- A reduction in salary is not required for employees demoted in lieu of layoff as long as the salary fits on a step of the new range and is equitable within the class (A reduction of salary may be made to promote equity with employees already in the class.)
- Only regular employees are entitled to offers of transfer/demotion
 - **Emergency, Provisional, Temporary, Limited Temporary and Original Probationary employees are not**
- An employee may request placement on reinstatement registers for appropriate lower classes (M-6).
- If a laid off probationary employee is re-hired in the same class within 1 year by the same appointing authority, the probation is "resumed." It does not start over

Reinstatement Registers

- Employees who are laid off will be added to the appropriate reinstatement register
- Division of service laying off employee(s) must fill vacancies in that class through the reinstatement register
- Agency is not required to reinstate employees laid off from other divisions of service; however, they must consider these individuals as part of their selection group

Reinstatement Registers (Continued)

- Reinstatement registers have 3-year life
- All transfers, re-employments, etc. must consider rights of laid off employees and their seniority
- If an employee is reinstated, he/she is removed from that register and other lower registers

Register Restoration Rights

- An Original or Promotional Probationary employee who is laid off or reinstated from promotion is restored to the register he/she was appointed from (if the register and score are active)
- Probationary employees appointed through non-competitive appointment (which does not involve placement on a register) are not restored to a register

Restrictions on Personnel Actions During & Following Layoff

- The Division of Personnel will review all appointments made by an agency during a layoff to insure that the rights of employees with regard to reinstatement and demotion in lieu of layoff are not abridged
- During the period of staff reassignments and reorganizations (considered 6 months), demotions, class transfers and transfers must recognize the rights of persons on the reinstatement registers
- Movements from one position to another can be made during this period only if the employee involved has higher service credit than persons available for reinstatement to the class and location

Other Considerations

- If laying off in multi-allocated classes, it is best to start with the lower classes for layoff
- Some positions involve duties/functions that cannot be abolished as long as the function exists. It is not appropriate to lay off if it results in the creation of a new position with the same set of duties (M-2)
- Need to consider classification impact on employees left to do the work (e.g., some supervisory classes may no longer be supervisory)

Information on Area Layoffs

- Unless specially requested, layoffs are statewide, within a division of service (M-2)
- Area layoff applies only to Regular, Reemployment Probationary or Reinstatement Probationary employees
- In an area layoff, transfers to positions held by Regular, Reinstatement Probationary or Reemployment Probationary employees are limited to the approved area
- When layoff is done by area, employees must also be offered transfer to vacant positions as well as positions held by Emergency, Provisional, Temporary, Limited Temporary or Original Probationary employees in any area

Layoffs Involving Special Circumstances

- Rule 1 CSR 20-3.070(1)(G) provides that the Personnel Advisory Board may authorize the use of alternative layoff procedures
- To use alternative layoff procedures, the appointing authority must develop a layoff plan for presentation and approval or disapproval of the Board (Reference M-8)
- This provision was designed to provide flexibility, but must be handled with care
(No request has been made of the PAB to exercise this provision of the rules in the past)

Information on Layoffs

- State Personnel Law: 36.360 RSMo
- Rule 1 CSR 20-3.070 (Layoff)
- Rule 1 CSR 20-2.015 (Broadbanded Managers)
- Rule 1 CSR 20-3.020(2) (Reinstatement Register)

For information on layoffs or assistance in layoff processing, please contact:

OA/Division of Personnel Resource and Assistance Center
Phone: (573) 751-1632
Toll Free 866- 617-9878